

01-001 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
DIVISION OF MARKET AND PRODUCTION DEVELOPMENT

Chapter 36: RULES GOVERNING THE MAINE FARMS FOR THE FUTURE PROGRAM

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SUMMARY

The 119th Legislature authorized the initiation of the Maine Farms for the Future Program (7 M.R.S.A., Chapter 10-B). The Legislature identified the need for providing farms with assistance in developing business plans to help those farms change farm operations to make them more viable and profitable. These rules establish the procedures for administering the program, including: application procedures, criteria for granting awards within the guidelines specified in the legislation, an outline of the responsibilities of the applicants, the role of the committees overseeing program management, and other administrative procedures not specified in the legislation.

SECTION 1. DEFINITIONS

1. **Agricultural Products** - means fresh, or to be processed, food, fiber, or horticultural products grown on the farm, with the intent that the product be sold or otherwise disposed of to generate income. Agricultural products produced on the farm may include the growing and harvesting of some specialty forest products, such as firewood processing, but may not include the products of a business engaged primarily in the growing, harvesting or processing of trees for the purpose of producing pulp or other materials used in paper manufacturing or wood manufacturing. An agricultural product may also include aquacultural products, so long as they are raised on the farm.
2. **Business Plan** - means a document that identifies changes in farm management practices and investments in equipment and property that would increase the profitability and net worth of the farm (vitality). A typical plan identifies ways to increase on-farm income through such methods as improved management practices, direct marketing, and value-added initiatives; and describes current operations and future plans for the business, including but not limited to sections on mission/vision, legal organization, management team, product descriptions, market research, market promotion, customer profiles, financial statements, financial analysis of planned changes in the business and long-term goals for the business.
3. **Capital** – means cash or goods used to generate income by investing in a business, and/or the net worth of a business as in the amount by which its assets exceed its liabilities and/or the money, property, and other valuables which collectively represent the wealth of the business.
4. **Department** - means the Maine Department of Agriculture, Food and Rural Resources.
5. **Development Pressure** - means the potential of the farm operations to be curtailed or the Farm Business to be put out of business due to increasing development of non-compatible land uses near the farm. This includes, but is not limited to residential and industrial development, nuisance complaints, and loss of agricultural infrastructure in the vicinity of the farm or food business. These, and other non-compatible land uses, can create environmental, social, political, or operational constraints on the farm operation and result in, negative financial impacts to the Farm Business.

6. **Farm Business** – means that the agricultural products grown or produced on the farm are being sold commercially and the farm has documentation of gross and net farm income, expenses, net worth and farm debt.
7. **Farmland Protection Agreement** – means a written agreement between a farm selected to receive an investment support cash grant and the Maine Department of Agriculture, Food and Rural Resources, wherein the farm agrees to keep an area of farmland of no less than 5 acres in active agricultural use and to protect that land from non-agricultural development for a period of seven (7) years.
8. **Financial Capacity** - means the ability of the business to pay back its debt through the present or future cash flow of the business.
9. **Land in Agricultural Use** - means land that is currently being used to grow agricultural, horticultural and silvicultural products.
10. **Net Worth** – means the total assets of the farm enterprise minus total liabilities of the farm enterprise.
11. **Non-State sources of funds** - means any source of funds other than moneys provided directly or indirectly by the State of Maine government. A state source does not include commodity group dedicated revenues generated by commodity check-off programs, even if collected by the Department of Revenue Services.
12. **Program Administrator** - means the Suitable Organization contracted by the Department to administer the Maine Farms for the Future Program (the "Program").
13. **Review Panel** – means a group of individuals, appointed by the Commissioner of Agriculture, who shall evaluate and approve applications for participation in the business planning and investment support programs, as well as to do periodic reviews of program criteria.
14. **Services Package** - means a number of specific tasks to be accomplished by a team of Service Providers and the owner or operator of the selected farm to develop a Business Plan. Services may include, but are not limited to, analyzing markets, developing financial data, creating production or processing efficiencies and registration for instruction or classroom training in economics and business planning for the owner or operator of the farm. All tasks must result in planning potential changes of the farm's production, management or marketing practices and investments in equipment and/or property that would increase the future profitability and net worth (vitality) of the farm.
15. **Service Provider** - means the following entities: including but not limited to, individuals, private organizations, public organizations and agencies of the State, marketing consultants, accounting firms, business support organizations, farm support organizations and other organizations that the Department determines may provide valuable services such as, but not limited to, analyzing markets or developing financial data and instruction or classroom training in economics and business planning for the owner or operator of a farm.

16. **Suitable Organization** - means an organization capable of performing all the duties outlined in 7 M.R.S.A. Chapter 10-B Section 320(1) (A) through (E) and (G). The organization contracted by the Department to administer the program becomes the "Program Administrator".
17. **Vitality** – means an increase in the long-term, maintainable, farm profitability and net worth.

SECTION 2. PROGRAM FUNDING

1. The Maine Farms for the Future Program is funded by appropriations from State general funds as provided by Maine Public Laws, 1999, Chapter 763, and any subsequent appropriations, and, whenever possible, any additional funding that may be available through an organization selected to administer the program.
2. At least 40% of the total annual state funding for this Program must be reserved to be used for grants awarded under Chapter 10-B Section 319 (1) through (5) for investment support.
3. Funds appropriated to the Program may not lapse but must be carried forward.

SECTION 3. ADMINISTRATION

1. Selection of an Administrating Organization

The Department may contract the administration of this Program to a Suitable Organization selected through a competitive process determined by the Department.

2. Eligibility Requirements of the Organization Contracted to Administer the Program

- A. Any organization is eligible to apply for contractor status to administer the Program.
- B. The organization must be able to perform all the duties outlined in Section 3.3 below.

3. Program Administrator Duties

It shall be the responsibility of the Program Administrator to:

- A. Promote the program to farms in the State and solicit applications as specified in Section 6.3.
- B. Organize and oversee the Review Panel.
- C. Work with the Department to periodically review the criteria developed for the selection of applicants for participation in the business plan development and

investment support programs, and make recommendations to the Department for changes as appropriate.

- D. Compile a list of Service Providers.
- E. Assemble and monitor a Services Package to assist selected farm applicants with developing a Business Plan and work with the Department to administer the disbursement of business planning grants to farm grantees.
- F. Work with the Department to verify selected applicants' required matching funds, finalize Farmland Protection Agreements, and administer the disbursement of the investment support grants to farm grantees.
- G. Submit quarterly progress reports to the Department.
- H. Survey, evaluate and report annually to the Department by December 30th of each year on the impact and effectiveness of the program.

SECTION 4. REVIEW PANEL

1. Selection of Review Panel

The Review Panel will be appointed by the Commissioner of Agriculture on staggered terms of three years, and will be comprised of 5 members, each with knowledge of Maine agriculture and its needs, and each with expertise to contribute, such as agricultural financing, management, production, marketing, or policy.

2. RESPONSIBILITIES

The role of the Review Panel is to evaluate and approve applications for selected farms to participate in the business plan development and investment support programs utilizing criteria developed by rule, by the Department. The Panel may work with the Commissioner and the Program Administrator to periodically review program criteria.

SECTION 5. SERVICE PROVIDERS

1. Selection of Service Providers

- A. The Program Administrator shall develop, maintain and periodically update a list of Service Providers by widely circulating an application to qualifying entities and providing the list to the Department. The application must request information including qualifications of the entity in any professional, technical or subject area that may be of use in developing a farm Business Plan.
- B. A selected farm grantee may work with any Service Provider on the list. If an individual who is not on the list is desired, the individual must apply to be approved as a Service Provider by the Department or the Program Administrator.

2. **Responsibilities of Service Providers**

The Service Provider, if a part of the Services Package for a farm business plan development grant, shall assist the selected farm grantee with developing a Business Plan as defined above.

SECTION 6. SOLICITATION OF FARMS FOR PARTICIPATION IN THE MAINE FARMS FOR THE FUTURE BUSINESS PLAN DEVELOPMENT PROGRAM

1. **Eligibility Requirements**

An applicant must own and operate a Farm Business that has been producing agricultural products commercially in the State of Maine for at least two (2) years at the time of application. The applicant must own their farmland or be a partner or shareholder in a legal entity that owns the farmland. If having recently purchased the farmland, the applicant must have at least two year's experience operating a Farm Business elsewhere in Maine. The applicant must submit an application to the Department, in accordance with State rules for Requests for Proposals (M.R.S.A. §1825 (C) Administrative Rules 19, 554, Chapter 110,120) to be eligible for participation in the Program.

2. **Criteria for Selection**

Applicants to the Program must demonstrate the following and shall be scored accordingly:

- A. **Management Capacity:** The management capacity of the applicant based upon the number of years farming and other related experience and training; the applicant's decision making authority over the land and resources; and the applicant's statements of purpose and readiness to apply to the Program. 20 points
- B. **Quality of the Ideas for Change:** The ability of the applicant to identify and propose ideas that will make fundamental changes on the farm that will improve viability, profitability, and capacity to pay back debt through the present or future cash flow of the business, while also attempting to make farming the primary source of the applicant's income. 25 points
- C. **Farm Financial Health and Ability to Transform:** The ability of the applicant to describe the current financial condition of the Farm Business, including the current debt load relative to earnings, the assets and liabilities, and whether the debt load and access to new assets can be managed with the proposed ideas for change. 25 points
- D. **Physical Resource Base:** The suitability and productivity of the farmland for its intended agricultural use, the physical condition of buildings and equipment, and other assets needed to maintain and increase productivity of the Farm Business. 20 points

- E. **Other Conditions:** The degree of development pressure on the farm operation, the percentage of the operated farmland that is owned by the applicant, and the potential environmental and community economic development benefits derived from the proposed change. 10 points

The Commissioner may periodically review these selection criteria with the Review Panel and the Program Administrator to consider changes in policy when it is deemed necessary or appropriate.

3. **Solicitations and Notification of Award**

- A. The Department may solicit proposals at any time, but shall solicit proposals at least once per year. The Program Administrator will develop application forms, which must be filled out by the applicant and submitted to the Department by the due date indicated in the Department's publicly noticed Request for Proposals.
- B. The Review Panel shall evaluate applications within five weeks following deadlines for submission of applications. All applicants shall be notified in writing within one week following the Review Panel's decision.
- C. The Department will review and address all written appeals made by applicants who are not selected for the business plan development program. The unsuccessful applicant must submit a written letter of appeal to the Department within 30 days of the date of receipt of the Review Panel's written notice.

4. **Application Procedures**

- A. Anyone interested in applying to the program must submit, on a form approved by the Department, a completed application. The application will require the submission of the following information:
- (1) A full description of the current agricultural activities carried out on the land including the type and quantity of crops, number of livestock, and/or acreage leased or used by others for agricultural purposes, description of other farm equipment and building resources.
 - (2) A statement by the applicant explaining their purpose for applying to the Program and describing how the Program could benefit the economic and environmental viability of the farm.
 - (3) A statement of the present financial situation of the farm including the gross and net farm income and expenses, copies of Schedule F for the two (2) most recent tax years, if available, and a statement identifying net worth and farm debt.
 - (4) Information on the management capability of the farm owner(s) including their education and experience.
 - (5) A statement as to the degree to which the farm is supporting the household.

- (6) A statement by the applicant explaining the short and long term plans for keeping the property in agricultural use.
- (7) Authorization for the Department or Program Administrator to conduct a field inspection of the land, buildings, and equipment to be covered by the Business Plan.
- (8) A United States Department of Agriculture (USDA) Natural Resources and Conservation Service's soil map or an aerial map of the farm showing its soil types and their classification by the USDA NRCS as *Prime, Statewide Important or Locally Significant Farmland*, if readily available from the local Soil and Water Conservation District or USDA Natural Resource Conservation Service Office.

5. **Uses and Limitations of Funding**

Any funds provided by the Department pursuant to business plan development shall not exceed \$10,000. The Commissioner can lower this threshold as needed to increase the number of farms assisted by the business plan development program.

SECTION 7. SOLICITATION OF FARMS FOR PARTICIPATION IN THE MAINE FARMS FOR THE FUTURE INVESTMENT SUPPORT PROGRAM TO IMPLEMENT A BUSINESS PLAN

1. **Eligibility Requirements**

A farm that has completed a Business Plan as defined above is eligible to apply for investment support funding to implement the Business Plan. The applicant may apply to be considered for either or both of two types of investment support grants. They may apply to receive the Department's recommendation to apply for a reduced-interest (2%) loan from the Agricultural Marketing Loan Fund under Title 7, Chapter 101, Subchapter 1-D, **and/or** they may apply for an investment support cash grant in exchange for a Farmland Protection Agreement. If an applicant has previously permanently protected the farm with a conservation easement, then he or she is not eligible to apply for the investment support cash grant, but may apply to be recommended to apply for a reduced-interest (2%) loan.

B. An applicant requesting an investment support cash grant in exchange for a Farmland Protection Agreement must own at least 5 acres of land in agricultural use at the time of application.

2. **Criteria for Selection**

To be selected for the investment support program, an applicant must participate in a competitive application review process by submitting an application form and a written Business Plan to the Department. The application and Business Plan must demonstrate the following:

- A. **The Business Plan** satisfies the definition in Section 1 and requirements in Section 6 above. 5 points.

- B. **Management Capacity:** The Business Plan provides evidence of applicant's knowledge, experience and management capacity to successfully plan and implement the proposed changes to the Farm Business. 20 points.
- C. **Financial Capacity:** The proposed changes to the Farm Business will improve the cash flow thereby improving the management of debt load needed to pay any new debt associated with the proposed change(s) to the Farm Business. 10 points.
- D. **Farm Vitality and Development of New Capital:** The Business Plan demonstrates, through better strategies, marketing, production efficiencies and upgrading of facilities and equipment, an increase in profitability and overall net worth that will improve the overall sustainability of the Farm Business. 30 points.
- E. **Collateral or Asset Base:** The Business Plan demonstrates that the farm operations will improve the productivity of the land (soil quality, fertility, water holding capacity), and the physical condition of the buildings and equipment, and sufficiently maintain any newly acquired assets to increase the overall sustainability of the Farm Business. 20 points.
- F. **Other Conditions**
 - (1) The Business Plan identifies how the current or proposed farm operations will accomplish broader conservation objectives such as protecting water quality, improving wildlife habitat, or maintaining open space and local scenic and cultural amenities as long as such practices enhance or maintain the profitability of the farm. 5 points
 - (2) The percentage of the farmland owned by the applicant that is to be protected under the Farmland Protection Agreement. 5 points
 - (3) The degree to which the change in the business is new and different to the business. 5 points

3. **Uses and Limitations of Funding**

- A. The Department may provide investment support by granting a selected applicant a portion of the funds needed to implement the Business Plan. The cash grant is for an amount not to exceed the lesser of \$25,000 or 25% of the total investments identified by the Business Plan. Prior to the disbursement of cash grant funds the Department may require the grantee to provide documented evidence of a proportionate amount of match equaling 75% of the total investments identified by the Business Plan. The match must be directly related to the implementation of the Business Plan and must have a real market value. Match may include, but is not limited to, in-kind labor and farm resources such as timber, sand, gravel or other natural resource materials used to implement the Business Plan; personal cash resources; loans, including a reduced-interest (2%) loan from the Agricultural Marketing Loan Fund; other grants; and other resources relevant to the Business Plan.

- B. The Department may provide a selected applicant with a recommendation to apply for a reduced-interest (2%) loan from the Agricultural Marketing Loan Fund established under Title 10, Section 1023-J and administered under 7 M.R.S.A. Section 43. If the total cost to implement the Business Plan is less than \$100,000 then the reduced-interest loan may be up to 90% of that cost. If the total cost to implement the Business Plan is more than \$100,000 then the reduced-interest loan may be up to 75% of that cost. In either case, the total amount of the reduced-interest loan may not exceed \$250,000. The reduced-interest loan may be used as match for the cash grant described above.
- C. The Review Panel will recommend to the Department those applicants that it has selected for investment support through a cash grant and/or a recommendation to apply for a reduced-interest loan under Title 7, Section 435, Subsection 3-A.
- D. Any funds provided by the Department pursuant to investment support to implement a Business Plan must be used to implement the Business Plan in its original form or in a subsequent amended version that has been approved by the Program Administrator and the Department prior to disbursement of funds.
- E. Whenever practicable, the Review Panel, will award grants to applicants that represent a diversity of agricultural enterprise types and broad geographic distribution across the State.
- F. If there is sufficient capital generated by the Farm Business or the applicant's off-farm enterprises, services or employment to fund the implementation of the Business Plan, then the Review Panel may designate that particular Farm Business as a lower priority for investment support grant funds.

4. **Solicitation Procedures**

- A. The Department may solicit proposals at any time during the fiscal year, but shall solicit proposals at least once per year.
- B. The Review Panel shall evaluate applications within five weeks after the deadline for applications has passed.
- C. The Review Panel shall send a written notification of a grant to a selected farm within one (1) week of its decision. Such notice shall include a draft of the Farmland Protection Agreement which must be finalized and signed by the selected farm before any grant funds are disbursed by the Department.
- D. The Review Panel shall send a written notification of its recommendation for a reduced-interest (2%) loan to the Department and the selected farm.
- E. If an applicant is not selected by the Review Panel, the Review Panel shall send the applicant and the Department a written notice of its decision. Such notice shall include documentation of the Review Panel's final score for the applicant and a written statement of the Panel's decision. Upon receipt of such notice, an unsuccessful applicant may appeal to the Department in writing within 30 days of receipt of the Review Panel's notice. The Department will address all letters of appeal within 30 days of receipt.

5. **Farmland Protection Agreement**

A farm selected to receive a cash grant for investment support must enter into a 7-year Farmland Protection Agreement as defined in Section 1.

6. **Termination of Agreement**

A farm may terminate its Farmland Protection Agreement at any time, provided that it reimburses the Department for any investment support funds disbursed to the farm by the Department.

STATUTORY AUTHORITY: 7 M.R.S.A. Chapter 10-B

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